

would be consistent with copying reports for dissemination. That evidence is consistent with Mr. Marceca's testimony that he initially copied some reports for Mr. Livingstone until he was told to stop doing so. Nor did the fingerprint analysis suggest that the reports had been handled by anyone outside of the OPS chain of command.

Finally, even the testimony regarding the presence of files in Mr. Kennedy's office suggests nothing nefarious, even if true. Although one witness testified in a separate proceeding that she saw background reports in former Associate White House Counsel William Kennedy's office on several occasions, she also testified that she did not know what FBI files looked like. From such testimony, the Independent Counsel could not expect a jury to conclude beyond a reasonable doubt that the reports were even in the Counsel's office, much less whether there was anything improper about their being there. Also, the absence of Mr. Kennedy's fingerprints from the reports themselves suggests that the reports were never in Mr. Kennedy's possession.

There is also no evidence that anyone else asked Mr. Livingstone or Mr. Marceca to obtain background reports of former White House staff. Mr. Kennedy denied doing so; as did Mrs.